

The Cape Town Convention – Explanation and Current Status

The Convention on International Interests in Mobile Equipment (the Convention) [the text can be found at www.unidroit.org/english/conventions/mobile-equipment/mobile-equipment.pdf] and the Protocol to the Convention on Matters Specific on Aircraft Equipment (the Protocol) is to embrace not only classic security interests in aircraft and other mobile equipment such as aircraft engines, but also the lessor's interest under a leasing agreement. The efficacy of the international interest is conditional upon registration in an international registry established under the Convention. As noted by the International Civil Aviation Organization (ICAO),

the new international registry system will reduce the risks of lending for aircraft financiers, banks and other financing institutions, involved in aircraft purchasing and leasing, thus reducing the cost of credit. Financing and leasing costs represent on average about eight percent of total operating expenses of international scheduled airlines.¹

Four nations -- Panama, Ethiopia, Nigeria, and Pakistan -- have ratified or acceded to the Convention. Nigeria's ratification of the Convention on December 16, 2003 triggered the Convention's entry into force on April 1, 2004. Ratification by an additional four nations will bring the Protocol into force.

The International Institute for the Unification of International Law (UNIDROIT) in Rome was designated as the Depository of the Convention. An Explanatory Memorandum to assist nations interested in ratifying the Convention and Protocol can be found at www.unidroit.org/english/conventions/mobile-equipment/depositaryfunctions/main.htm.

On June 2, 2004, Aviareto, of Ireland, was selected to establish the International Registry for the Cape Town Convention and the Protocol by the ICAO and to act as registrar once the Protocol enters into force.

U.S. Ratification Process

The United States signed the Convention and the Protocol on May 9, 2003. President Bush transmitted the treaties to the Senate on November 5, 2003, urging the Senate to provide early advice and consent to the U.S. ratification. Hearings on the Convention and Protocol were held by the Senate Committee on Foreign Relations on April 1, 2004. On June 22, 2004, the Committee ordered the treaties to be reported without amendment favorably to the Senate. No date for Senate action has been set.

¹ICAO News Release, "Aviareto Selected to Establish International Registry System for Interests in Aircraft," June 4, 2004